

### REMARKS

This is in response to the Office Action dated August 13, 2001. An appropriate request for an extension of time and requisite fee for the extension, as well as the addition of further claims are included herewith. At the outset, Applicant would like to express their appreciation for the courtesies granted by the Examiner handling this case and as supervisor in the interview conducted on October 29, 2001. Amendments to the claims consistent with the positions discussed in that interview have been made herein.

Claims 13-45 remain pending. New claims 46-51 have been added to more particularly define the patentable aspects of Applicant's invention. Previously pending claims 13-45 were rejected under 35 U.S.C. §102 (b), as being anticipated by Shea (U.S. Patent No. 5,314,087) or in the alternative, as being obvious under 35 U.S.C. §103(a) in view of Shea, in combination with McCord (U.S. Patent No. 727,749). The Shea reference discloses a shipping container system having an inner liner for insertion into an inner shipping container for further insertion into an outer shipping container. An alternative embodiment of the Shea reference inserts an inner liner into only one container.

The inner liner of Shea does not teach integral foldable side, front or back flaps as in the present invention. Shea, likewise, does not teach that the height of these flaps is selectively adjustable. In addition, Shea does not disclose a top formed from the first and second side flaps and the front and back flaps, wherein the first and second side flaps are folded and adjacent to each other. In contrast, Shea teaches a flap separate lid that rests upon the top area of the inner liner 1 (see e.g. figure 4, reference no. 4 in column 4, lines 45+ in figure 1, and column 3 lines 30-31). Similarly, the side walls and back walls of

the inner liner are not stated as being collapsible in the Shea reference. The reflective liner of Shea is only disclosed as a "floating" layer encased within the wall.

In the alternative, should the inner shipping container 5, be thought of as Applicants inner container that is inserted into an outer container, then it likewise fails in several regards to teach or suggest Applicants claim combination. For example, the walls of the inner container 5 of Shea are not collapsible, they are not constructed of a flexible insulating material having one metalized surface and the walls do not form an integral moisture proof seal with the bottom and with each other. Additionally, the inner container of Shea is utilized only when a separate inner liner is also used. The Shea reference does not have any teaching of, or suggestion to combine the properties of the inner liner with the properties of the inner container into a single container. In fact, the entire teaching of the Shea reference is away from this concept. For example, when only the inner liner is used without the inner container, a spacer is used, then Shea teaches in stark contrast to Applicant's invention, that there should be no direct contact of the insulation with the outer paper board container (see e.g. column 1, lines 22-28; column 3, line 59-61 and column 4).

The McCord reference, cited by the Examiner, likewise provides no teaching or suggestion to make up for the above listed deficiencies in the Shea reference. To begin with, the McCord reference is specifically stated to be an improvement in pasteboard boxes, such are commonly used by milliners for holding ladies hats and bonnets. McCord nowhere states that his collapsible box construction is to be utilized, or for that matter capable of being utilized, to transport temperature sensitive contents in a moisture controlled environment, such as the present invention. This is highlighted by the fact that the top of the McCord box is not formed by the side, front and back flaps as in fact a

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separate item, and the fact that the McCord box has three openings, C prime, C squared and C to the third power, to pass a cord through the box. This is yet another overwhelming reason that one skilled in the art, would not look to the McCord construction for a flexible insulated inner container assembly that forms a moisture proof seal and has a metalized surface such as the Applicants. In addition to the aforesaid, the McCord reference does not have foldable flaps extending above its side walls and end walls, it has no metalized surface and does not form an integral moisture proof seal. The flaps do not form a top to the container and none of the walls contains an integral, foldable flap extending above the walls.

Claim 13, as amended, requires an inner container that is designed to be removably inserted into an outer container, with the single inner container having a bottom collapsible first and second side walls and front and back walls, each constructed of a flexible insulated material having one metalized surface and with the walls forming an integral moisture proof seal with the bottom and each other. Applicants claimed inner container further requires integral foldable flaps extending above the side walls and end walls and has a top formed from the side and back flaps. Neither the Shea nor the McCord reference as set forth above, contains, discloses or suggests all of these features whether taken alone or in combination. Similarly, independent claim 37, contains the same limitations as described above, but further states that each of the walls is constructed at first and second layers of flexible insulating material. Likewise, independent claim 34 has similar limitations, calling for integral foldable side flaps extending above the respective side walls and independent claim 42 contains limitations

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virtually identical to those of claim 13, but further adds that the height of the side walls, front and back walls and the first, second, front and back flaps is selectively adjustable. Again, this feature is not taught or suggested by the references cited by the Examiner.

The Shea reference, likewise teaches that the layer of reflective sheet material and the radiant barrier material "float" within a sealed pouch. The barrier material is not stationary, does not form part of the outer wall of the inner container of Shea, nor does it extend throughout the entire wall (see e.g. figure 2a), additionally the reflective barrier material and all portions of the inner liner itself, do not contact the outer container when the inner liner is inserted in the outer container, where the Shea reference instead requires spacers so that the inner liner never touches the outer shipping container. New claims 46-51 have been added to further define Applicant's invention over this structure of the Shea reference. As such, Applicant respectfully submits that these claims likewise define patentable subject matter over the references cited by the Examiner and all those of record alone or in combination.

Applicant respectfully submits that all claims are in condition for allowance and respectfully requests same. If the Examiner has any questions concerning this amendment, he is invited to contact Applicant's Attorney at the below listed telephone number.

Respectfully submitted,

Date: 12/13/01

  
Thomas P. Liniak  
Registration No. 33,415  
Attorney for Applicant

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Liniak, Berenato, Longacre & White, LLC  
6550 Rock Spring Drive, Suite 240  
Bethesda, Maryland 20817  
(301) 896-0600

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### APPENDIX – MARKED-UP VERSION

13. (Twice Amended) An inner container [assembly] designed to be removably inserted into an outer container, said inner container comprising:

a bottom, collapsible opposing first and second sidewalls and front and back walls, each constructed of a flexible insulating material having one metalized surface, said first and second sidewalls and said front and back walls forming an integral moisture proof seal with said bottom and each other;

an integral first foldable side flap extending above said first sidewall and having opposing edges, said flap comprising a top edge that is substantially straight along its entire length;

an integral foldable second side flap extending above said second sidewall and having opposing edges, said flap comprising a top edge that is substantially straight along its entire length;

an integral foldable front flap extending above said front end and integral with the edges of both said first and second side flaps, said front flap comprising a top edge that is substantially straight along its entire length;

an integral foldable back flap extending above said back end and integral with the edges of both said first and second side flaps, said back flap further comprising a top edge that is substantially straight along its entire length; and

a top formed from said first and second side flaps and said front and back flaps wherein said first and second side flaps are folded and adjacent each other.

14. (Once Amended) The [assembly] container of claim 1, wherein said flexible insulating material is bubble pack material.

15. (Once Amended) The [assembly] container of claim 1, wherein said flexible insulating material is microfoam.

16. (Once Amended) The [assembly] container of claim 14, wherein said metalized surface is located on the inside of the inner container.

17. (Once Amended) The [assembly] container of claim 13, wherein said front and back walls each have a gusseted reinforcement.

18. (Once Amended) The [assembly] container of claim 13, further comprising:  
a selectively releasable means for securing a portion of said first side flap to a portion of said second side flap.

19. (Once Amended) The [assembly] container of claim 13, wherein at least one of said flaps forming said top has a means for sealing said top.

20. (Once Amended) The [assembly] container of claim 13, wherein said front flap is connected to the edges of both said first and second side flaps.

22. (Once Amended) The [assembly] container of claim 13, wherein said top is formed with said first and second side flaps partially in contact with each other.

23. (Once Amended) The [assembly] container of claim 13, wherein said top is formed with said front and back flaps folded.

24. (Once Amended) The [assembly] container of claim 22, wherein said folded front and back flaps of said top forming said top are gusseted.

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25. (Once Amended) The [assembly] container of claim 13, wherein said bottom is substantially flat.

26. (Once Amended) The [assembly] container of claim 13, wherein said first and second side flaps and said front and back flaps are substantially the same height.

27. (Once Amended) The [assembly] container of claim 13, wherein the height of said first and second sidewalls, said front and back walls and said first, second, front and back flaps is selectively adjustable.

28. (Once Amended) The [assembly] container of claim 13, wherein said first and second side flaps are substantially the same height.

29. (Once Amended) The [assembly] container of claim 13, wherein said first and second side flaps and said front and back flaps are substantially the same height.

30. (Once Amended) The [assembly] container of claim 13, wherein said first and second flaps are connected to said front and back flaps.

31. (Once Amended) The [assembly] container of claim 13, wherein said bottom is substantially flat.

32. (Once Amended) The [assembly] container of claim 13, wherein said first and second sidewalls are movable from a first open position substantially perpendicular to said bottom to a second folded position substantially parallel to said bottom of said inner container assembly.

33. (Once Amended) The [assembly] container of claim 13, wherein said first and second sidewalls in said second position have a length and width that is no greater than said bottom.



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34. (Once Amended) An inner container [assembly] designed to be removably inserted into an outer container, said inner container comprising:

a bottom, a first and second collapsible opposing sidewalls extending from said bottom, each constructed of a flexible insulating material having one metalized outer surface, said first and second sidewalls forming an integral moisture proof seal with said bottom and each other;

an integral first foldable side flap extending above said first sidewall and having first and second side edges and a top edge that is substantially straight along its entire length;

an integral foldable second side flap extending above said second sidewall and having first and second side edges and a top edge that is substantially straight along its entire length;

a top formed from said first and second side flaps wherein said first and second side flaps are folded and adjacent each other; and

wherein said first and second sidewalls are movable from a first open position substantially perpendicular to said bottom to a second folded position substantially parallel to said bottom of said inner container assembly.

35. (Once Amended) The [assembly] container of claim 34, wherein said first and second flaps are substantially the same height.

36. (Once Amended) The [assembly] container of claim 34, wherein said first and second sidewalls in said second position have a length and width that is no greater than said bottom.

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37. (Once Amended) An inner container [assembly] designed to be removably inserted into an outer container, said inner container comprising:

a bottom, collapsible opposing first and second sidewalls and front and back walls, each constructed of first and second layers of flexible insulating material, having one metalized outer surface, said first and second sidewalls and said front and back walls forming an integral moisture proof seal with said bottom and each other;

an integral first foldable side flap extending above said first sidewall, said first side flap further comprising a top edge that is substantially straight along its entire length;

an integral foldable second side flap extending above said second sidewall, said second side flap further comprising a top edge that is substantially straight along its entire length;

an integral foldable front flap extending above said front end and integral with the edges of both said first and second side flaps, said front flap further comprising a top edge that is substantially straight along its entire length;

an integral foldable back flap extending above said back end and integral with the edges of both said first and second side flaps, said back flap further comprising a top edge that is substantially straight along its entire length; and

a top formed from said first and second side flaps and said front and back flaps wherein said first and second side flaps are folded and adjacent each other.

38. (Once Amended) The [assembly] container of claim 37, wherein said first and second layers of insulating material are comprised of different materials.

39. (Once Amended) The [assembly] container of claim 37, wherein said bottom is substantially flat.

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40. (Once Amended) The [assembly] container of claim 37, wherein said first and second sidewalls are movable from a first position substantially perpendicular to said bottom to a second folded position substantially parallel to said bottom of said inner container assembly.

41. (Once Amended) The [assembly] container of claim 37, wherein the height of said first and second sidewalls, said front and back walls and said first, second, front and back flaps are selectively adjustable.

42. (Once Amended) An inner container [assembly] designed to be removably inserted into an outer container, said inner container comprising:

a bottom, collapsible opposing first and second sidewalls and front and back walls, each constructed of a flexible insulating material having one metalized surface, said first and second sidewalls and said front and back walls forming an integral moisture proof seal with said bottom and each other;

an integral first foldable side flap extending above said first sidewall and having opposing edges;

an integral foldable second side flap extending above said second sidewall and having opposing edges;

an integral foldable front flap extending above said front end and integral with the edges of both said first and second side flaps;

an integral foldable back flap extending above said back end and integral with the edges of both said first and second side flaps;

wherein the height of first and second sidewalls, said front and back walls and said first, second, front and back flaps is selectively adjustable; and

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a top formed from said first and second side flaps and said front and back flaps wherein said first and second side flaps are folded and adjacent each other.

43. (Once Amended) An inner container [assembly], designed to be removably inserted into an outer container, said inner container comprising:

a bottom and a collapsible sidewall extending upwardly from the entire periphery of said bottom and having a top edge, said bottom and said sidewall each constructed of a flexible insulating material having an outer metalized surface, said sidewall forming an integral moisture proof seal with and along said entire periphery of said bottom.

an integral first foldable side flap extending above said entire top edge of sidewall, said flap further having a substantially continuous height along its entire length;

a top formed from said flap that completely closes said inner container.

44. (Once Amended) The [assembly] container of claim 43, wherein said flap is movable from an open position wherein said flap extends above said outer container to a second position wherein it completely closes said inner container and is contained entirely within said outer container.

45. (Once Amended) The [assembly] container of claim 43, wherein said height of said sidewall and said flap are selectively adjustable.

46. The container of claim 13 wherein said metalized surface extends throughout all of said bottom, said first and second sidewalls and said front and back walls.

47. The container of claim 13 wherein each of said bottom, said first and second sidewalls and said front and back walls has a metalized outer surface.

48. The container of claim 13 wherein a portion of said inner container is in direct contact with said outer container when it is inserted in said outer container.

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49. The container of claim 13 wherein a portion of said metalized surface is in direct contact with said outer container when said inner container it is inserted in said outer container.

50. The container of claim 13 wherein said metalized surface is not located in air tight pouch within said first and second sidewalls or said front and back walls.

51. The container of claim 13 wherein said metalized surface is not movable independent from said first and second sidewalls and said front and back walls.

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Petition for Extension of Time Under 37 CFR 1.136(a) (and copy)

Amendment



Thomas P. Liniak

Attorney for Applicant, Reg. No. 33,415

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